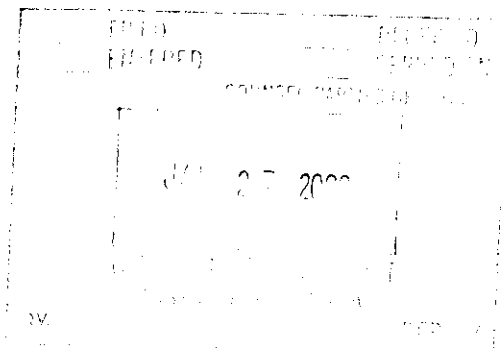


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UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

-oOo-

UNITED STATES OF AMERICA,

PLAINTIFF,

vs.

ALAN L. RODRIGUES,
WESTON J. COOLIDGE, and
JOSEPH PROKOP,

DEFENDANTS.

CRIMINAL INDICTMENT

2:09-CR- 022

VIOLATIONS:

Count 1: 18 U.S.C. § 371 (*Klein*)
(Conspiracy to Defraud the United States
by Impairing and Impeding the Internal
Revenue Service)

Counts 2-16: 26 U.S.C. § 7206(2) (Aiding
in the Preparation of Materially False
Income Tax Returns)

Counts 17-21: 18 U.S.C. § 1341 (Mail
Fraud)

THE GRAND JURY CHARGES THAT:

BACKGROUND

Entities

1. National Audit Defense Network ("NADN") was a corporation formed in
1996 in the State of Nevada. Initially, NADN's business was limited to representing clients

1 during the course of Internal Revenue Service ("IRS") audits. Subsequently, NADN
2 expanded the services that it provided to its clients to include the preparation of income tax
3 returns and the incorporation of business entities. In or about early 2001, NADN began to
4 offer for sale to its clients an internet shopping web site called Tax Break 2000. NADN's
5 offices were located in Las Vegas, Nevada, at 4330 South Valley View Boulevard. NADN
6 marketed its services nationwide through radio advertisements and promotional
7 appearances on talk radio programs.

8 2. Oryan Management and Financial Services ("Oryan") was a sole
9 proprietorship operating in Upland, California, that created an internet shopping web site
10 called Tax Break 2000 and that paid NADN a commission to handle the sales of Tax Break
11 2000. Oryan became a part of Free Trade Enterprises, Inc., in September 2002.

12 3. The Internal Revenue Service ("IRS") was an agency within the United
13 States Department of the Treasury.

14 Defendants

15 4. Defendant **ALAN L. RODRIGUES ("RODRIGUES")**, a former pit boss
16 and casino owner from Henderson, Nevada, began working for NADN in 1999. He was
17 NADN's general manager from at least early 2002 until NADN ceased doing business on
18 May 27, 2004. In that role, he oversaw all of NADN's daily operations, including the sale of
19 Tax Break 2000.

20 5. Defendant **WESTON J. COOLIDGE ("COOLIDGE")**, a businessman
21 from Las Vegas, Nevada, was NADN's chairman and president from on or about March 12,
22 2002, until NADN ceased doing business on May 27, 2004. As chairman and president,
23 Defendant **COOLIDGE** supervised **RODRIGUES** in overseeing NADN's daily operations.

24 6. Defendant **JOSEPH PROKOP ("PROKOP")**, a former National Football
25 League punter from Upland, California, was the national marketing director for Oryan from
26

1 at least 2000 until 2004. He was the liaison between Oryan and NADN and trained NADN's
2 sales staff to sell Tax Break 2000 to NADN's customers.

3 Scheme

4 7. In the year 2000, co-conspirator Daniel Porter ("Porter"), the sole
5 proprietor of Oryan, created Tax Break 2000. In or about early 2001, Porter, on behalf of
6 Oryan, approached Defendant **RODRIGUES** and other co-conspirators known to the Grand
7 Jury with a proposal that NADN sell Tax Break 2000 to its customers. Approximately two
8 weeks later, Porter, on behalf of Oryan, entered into an agreement with NADN through
9 Defendant **RODRIGUES** and other co-conspirators known to the Grand Jury under which
10 NADN would sell Tax Break 2000 for a sales commission of 60 percent of the sales price,
11 with Oryan receiving the other 40 percent.

12 8. In or about early 2001, NADN began selling Tax Break 2000, variously
13 called tb2000.com, shopn2000.com, and mallforall.com.

14 9. Tax Break 2000 was a shopping web site that the defendants
15 fraudulently claimed would allow customers to claim legitimate income tax credits and
16 deductions under the Americans with Disabilities Act of 1990 ("ADA") and the Internal
17 Revenue Code.

18 10. The ADA includes a provision at 26 U.S.C. § 44 that provides a
19 "disabled access credit" to help offset necessary, reasonable expenditures made by eligible
20 small businesses to comply with the ADA's requirement that their facilities be accessible to
21 disabled persons. These expenditures include amounts paid to remove architectural
22 barriers, to remove communication barriers, to provide interpreters, to acquire or to modify
23 equipment, or to provide other similar services, modifications, materials, or equipment.

24 11. From 2001 through 2004, the defendants caused NADN to sell Tax
25 Break 2000 approximately 21,610 times to customers around the country.

COUNT ONE
18 U.S.C. § 371

[Conspiracy to Defraud the United States by Impairing and Impeding the Internal Revenue Service]

12. Paragraphs 1 through 11 are incorporated as though fully set out herein.

13. Beginning no later than early 2001, the exact date being unknown to the Grand Jury, and continuing through the date of this Indictment, within the District of Nevada and elsewhere, the Defendants,

ALAN L. RODRIGUES,
WESTON J. COOLIDGE, and
JOSEPH PROKOP,

knowingly and intentionally conspired and agreed together and with each other, and with other persons known and unknown to the Grand Jury, to defraud the United States by deceitful and dishonest means for the purpose of impeding, impairing, obstructing, and defeating the lawful government functions of the Internal Revenue Service of the Treasury Department in the ascertainment, computation, assessment, and collection of income taxes.

MANNER AND MEANS

Among the manner and means by which Defendants **RODRIGUES, COOLIDGE, and PROKOP**, and their co-conspirators carried out the conspiracy were the following:

14. They created Tax Break 2000 as a web site that was not accessible to the disabled so that they could sell separate modifications to each individual customer that purported to make the web site accessible to the disabled.

15. They falsely told customers that purchasing the modifications entitled them to a lawful income tax credit and deduction for having purportedly made their web sites accessible to the disabled.

18. They paid attorneys to write favorable opinion letters about Tax Break 2000 to refute a legal memorandum in which NADN's own tax experts, led by Robert Stovall ("Stovall"), determined that Tax Break 2000 was illegal and could subject those who sold it to criminal penalties (the "Stovall memorandum").

20. They prepared false tax returns on their customers' behalf.

In furtherance of the conspiracy and to effect the objects thereof, at least one of the Defendants or co-conspirators committed overt acts in the District of Nevada and elsewhere, including the following:

- a. J.A. & M.A., on or about October 29, 2002.
- b. P.B., on or about December 20, 2002.
- c. P.B., on or about January 30, 2003.
- d. P.B., on or about January 23, 2004.
- e. J.B. & K.B., on or about December 5, 2002.
- f. D.E. & J.E., on or about September 11, 2002.

- 1 g. D.E. & J.E., on or about March 4, 2003.
- 2 h. R.G., on or about December 4, 2002.
- 3 i. R.G., on or about March 31, 2003.
- 4 j. R.G., on or about December 30, 2003.
- 5 k. S.G. & E.G., on or about December 12, 2002.
- 6 l. S.G. & E.G., on or about September 4, 2003.
- 7 m. S.G. & E.G., on or about October 3, 2003.
- 8 n. R.H. and J.H., on or about April 9, 2003.
- 9 o. R.H. & J.H., on or about December 18, 2003.
- 10 p. R.H. & J.H., on or about December 31, 2003.
- 11 q. R.H. & J.H., on or about January 7, 2004.
- 12 r. R.H. & J.H., on or about January 12, 2004.
- 13 s. R.H. & J.H., on or about January 20, 2004.
- 14 t. R.H. & J.H., on or about January 26, 2004.
- 15 u. R.H. & J.H., on or about February 6, 2004.
- 16 v. J.H., on or about December 23, 2002.
- 17 w. J.J., on or about December 3, 2002.
- 18 x. J.J., on or about January 12, 2004.
- 19 y. M.K., on or about May 1, 2003.
- 20 z. M.K., on or about May 30, 2003.
- 21 aa. M.K., on or about June 18, 2003.
- 22 bb. A.L. & P.L., on or about December 16, 2003.
- 23 cc. N.M., on or about January 7, 2003.
- 24 dd. A.P. & C.P., on or about December 31, 2003.
- 25 ee. H.R., on or about January 9, 2002.
- 26

1 ff. H.R., on or about January 10, 2003.

2 24. In or about April or May 2001, Defendant **RODRIGUES** met with Porter
3 to decide how to refute the Stovall memorandum.

4 25. In or about June 2001, Defendant **RODRIGUES** caused NADN to pay,
5 together with Porter, \$25,000.00 to Attorney A to write an opinion letter to refute the Stovall
6 memorandum.

7 26. In or about June or July 2001, Attorney A gave to Defendant
8 **RODRIGUES** an opinion letter that said that Tax Break 2000 had a 50 percent chance of
9 surviving the IRS's scrutiny.

10 27. In or about June or July 2001, Defendant **RODRIGUES** told Attorney
11 A that a 50 percent chance was not sufficient and that Attorney A needed to re-write the
12 letter to say that Tax Break 2000 had a two-in-three chance of surviving the IRS's scrutiny.

13 28. On or about July 28, 2001, Defendant **RODRIGUES** and other co-
14 conspirators known to the Grand Jury distributed copies of Attorney A's altered opinion letter
15 to NADN employees.

16 29. On or about July 24, 2002, during a meeting at the Rio Hotel & Casino
17 in Las Vegas, Nevada, Defendants **RODRIGUES** and **COOLIDGE** directed Porter and
18 Defendant **PROKOP** not to disclose to NADN's employees that the IRS had just executed
19 a search warrant at Oryan's offices on July 22, 2002.

20 30. On or about July 24, 2002, during the meeting at the Rio Hotel & Casino
21 in Las Vegas, Nevada, Defendant **COOLIDGE** responded to Porter's decision to close down
22 Oryan by telling Porter not to close down Oryan because Defendant **COOLIDGE** would find
23 a person to buy Oryan from Porter.

24 . . .

25 . . .

1 33. In or about November 2002, Defendants **RODRIGUES** and **COOLIDGE**
2 caused NADN to pay \$20,000.00 to Attorney B to write an opinion letter to refute the Stovall
3 memorandum.

4 35. In or about February or March 2003, Attorney B personally delivered to
5 Defendants **RODRIGUES** and **COOLIDGE** a favorable opinion letter on Tax Break 2000,
6 back-dated to December 27, 2002, that was a near verbatim copy of Attorney A's favorable
7 opinion letter.

8 36. In or about January 2003, Defendants **RODRIGUES** and **COOLIDGE**,
9 Porter, and other persons known to the Grand Jury, met at an office in Las Vegas, Nevada,
10 and decided to create false Forms 1099 to create the appearance that customers' web sites
11 were generating commission income and that the purported promissory notes were being
12 paid off with this income.

13 37. In or about March 2004, Defendant **COOLIDGE** and other persons
14 known and unknown to the Grand Jury created false invoices to create the appearance that
15 payments were being made to Oryan to pay off the purported promissory notes.

16 38. As additional overt acts, the allegations in Counts 2-19 are incorporated
17 by reference as if fully set forth herein, that is, aiding and assisting in the preparation and
18 filing of each of the separate tax returns.

19 39. As additional overt acts, the allegations in Counts 20-24 are
20 incorporated by reference as if fully set forth herein, that is, knowingly causing to be sent,
21 delivered, and moved by the United States Postal Service and by a commercial interstate
22 carrier U.S. Individual Income Tax Returns, Forms 1040, either individual or joint, which
23 were false and fraudulent as to material matters. All in violation of Title 18, United States
24 Code, Section 371.

25

COUNTS TWO THROUGH SIXTEEN

26 U.S.C. § 7206(2)

[Aid in the Preparation of Materially False Income Tax Returns]

40. The allegations of paragraphs 1 through 39 above are repeated and re-alleged in Counts 2 through 18 of this Indictment, as though fully set forth herein.

41. On or about the dates hereinafter set forth, in the District of Nevada, the Defendants,

**ALAN L. RODRIGUES,
WESTON J. COOLIDGE, and
JOSEPH PROKOP,**

willfully aided and assisted in, and procured, counseled, and advised the preparation and presentation to the Internal Revenue Service, of U.S. Individual Income Tax Returns, Forms 1040, either individual or joint, for the taxpayers and calendar years hereinafter specified, which were false and fraudulent as to material matters, in that the tax returns reported "total eligible access expenditures" on Line 1 and "current year credit" on Line 8 of IRS Form 8826, entitled Disabled Access Credit, which was attached to and made part of the taxpayers' IRS Form 1040, entitled U.S. Individual Income Tax Return. That purported expenditure and credit, related to the taxpayers' purchase of Tax Break 2000, resulted in (A) an allowable tax credit that was thereafter entered on Line 53 of the 2002 IRS Form 1040, Line 52 of the 2003 IRS Form 1040, and on subsequent years' IRS Forms 1040, and (B) a business expense that was reported on Line 27 of IRS Schedule C, entitled Profit or Loss from Business (Sole Proprietorship), of the 2002 and 2003 IRS Forms 1040. These purported allowable tax credits and business expenses reduced the taxpayers' income tax due for 2002, 2003, and subsequent years, whereas Defendants knew that the said taxpayers were not eligible for the allowable tax credits and business expenses in the amounts claimed. The following chart reflects the taxpayers' claimed current year credits on Line 8 of IRS Forms

8826, allowable tax credits related to Tax Break 2000 on IRS Forms 1040, and business expenses related to Tax Break 2000 on IRS Schedules C, for tax years 2002 and 2003.

<u>C</u>	<u>O</u>	<u>N</u>	<u>I</u>	<u>DATE OF</u>	<u>TAXPAYERS</u>	<u>TAX</u>	<u>FORM 8826</u>	<u>ALLOW-</u>	<u>FALSE</u>	<u>BUS. EXPENSE</u>	<u>FALSE</u>
				<u>OFFENSE</u>		<u>YEAR</u>	<u>CURRENT</u>	<u>ABLE TAX</u>	<u>FORM 1040</u>		<u>SCH. C</u>
							<u>YEAR</u>	<u>CREDIT</u>	<u>LINE</u>		<u>LINE</u>
2				December 22, 2003	J.A. & M.A.	2002	\$5,000	\$5,000	Line 53	\$5,475	Line 27
3				October 20, 2003	P.B.	2002	\$5,000	\$1,419	Line 53	\$5,475	Line 27
4				April 15, 2003	J.B. & K.B.	2002	\$5,000	\$240	Line 53	\$5,475	Line 27
5				June 5, 2003	D.E. & J.E.	2002	\$5,000	\$2,623	Line 53	\$5,475	Line 27
6				April 15, 2003	R.G.	2002	\$2,612	\$2,612	Line 53	\$2,863	Line 27
7				April 15, 2003	S.G. & E.G.	2002	\$5,000	\$116	Line 53	\$5,475	Line 27
8				May 19, 2004	R.H. & J.H.	2003	N/A	\$0	N/A	\$4990	Line 27
9				April 15, 2004	J.H.	2003	\$5,000	\$4,330	Line 52	\$5,475	Line 27
10				April 15, 2003	J.J.	2002	N/A	\$4,670	Line 53	\$5,475	Line 27
11				April 15, 2004	J.J.	2003	\$5,000	\$5,330	Line 52	\$5,475	Line 27
12				April 15, 2004	M.K.	2003	\$5,000	\$2,578	Line 52	\$5,475	Line 27
13				August 20, 2004	N.M.	2003	\$5,000	\$2,118	Line 52	\$5,475	Line 27
14				April 15, 2004	A.P. & C.P.	2003	\$5,000	\$2,739	Line 52	\$5,475	Line 27
15				April 15, 2003	H.R.	2002	\$5,000	\$5,000	Line 53	\$5,475	Line 27
16				April 15, 2004	H.R.	2003	\$5,000	\$5,000	Line 52	\$5,475	Line 27

1 42. All in violation of Title 26, United States Code, Section 7206(2) and Title
2 18, United States Code, Section 2.

3 **COUNTS SEVENTEEN THROUGH TWENTY-ONE**

4 18 U.S.C. § 1341

 [Mail Fraud]

5 43. The allegations of paragraphs 1 through 42 above are repeated and re-
6 alleged in Counts 19 through 23 of this Indictment, as though fully set forth herein.

7 44. On or about the dates hereinafter set forth, in the District of Nevada, the
8 Defendants,

9 **ALAN L RODRIGUES,**
10 **WESTON J. COOLIDGE, and**
 JOSEPH PROKOP,

11 devised a scheme or artifice to defraud the individuals hereinafter specified and to obtain
12 monies by means of materially false and fraudulent pretenses from those individuals by
13 representing that Tax Break 2000 was a lawful means of securing a tax credit and a tax
14 deduction, when the defendants knew that Tax Break 2000 could not provide the tax
15 benefits claimed in the marketing materials and as represented to customers.

16 45. It was part of the scheme and artifice to defraud that Defendants
17 **RODRIGUES, COOLIDGE, and PROKOP**, did knowingly cause to be sent, delivered, and
18 moved by the United States Postal Service and by a commercial interstate carrier, to the
19 taxpayers and the IRS as hereinafter specified, U.S. Individual Income Tax Returns,
20 Forms 1040, either individual or joint, which were false and fraudulent as to material
21 matters, each mailing being a separate count of this Indictment as listed below:

22

23

24

25

<u>COUNT</u>	<u>DATE OF OFFENSE</u>	<u>ITEM</u>	<u>FROM/TO</u>
17	February 29, 2004	2003 U.S. Individual Income Tax Return, Form 1040, of H.R.	Reno, Nevada (residence), to Fresno, California (IRS Service Center)-self prep
18	March 16, 2004	2003 U.S. Individual Income Tax Return, Form 1040, of M.K.	Las Vegas, Nevada (NADN), to North Las Vegas, Nevada (residence)
19	April 6, 2004	2003 U.S. Individual Income Tax Return, Form 1040, of J.J.	Las Vegas, Nevada (NADN), to Sacramento, California (residence)
20	April 14, 2004	2003 U.S. Individual Income Tax Return, Form 1040, of J.H.	Las Vegas, Nevada (residence), to Fresno, California (IRS Service Center)
21	March 17, 2004	2003 U.S. Individual Income Tax Return, Form 1040, of A.P & C.P.	Henderson, Nevada (residence), to Fresno, California (IRS Service Center)

46. All in violation of Title 18, United States Code, Sections 1341 and 2.

DATED: this 27 day of January 2009.

A TRUE BILL:

/s/
FOREPERSON OF THE GRAND JURY

GREGORY A. BROWER
United States Attorney


JAY R. NANAVATI

TIMOTHY J. STOCKWELL
Trial Attorneys